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Kevin L. Smith
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STEVEN P. MEYER
Ball, Eggleston, P.C.
Lafayette, Indiana

NAJAM, Judge

STATEMENT OF THE CASE

Edmund Ade (“Husband”) appeals from the trial court’s dissolution decree which ended his marriage to JoAnn Ade (“Wife”). He raises the following issues for our review:

1. Whether the trial court had jurisdiction to rule on Wife’s Second Motion to Correct Error.
2. Whether the trial court abused its discretion when it divided the marital pot.

On cross-appeal, Wife contends that the trial court abused its discretion in evaluating an account receivable.

We affirm.

FACTS AND PROCEDURAL HISTORY

Husband and Wife married in 1969, and they separated in October 2004. Husband filed a petition for dissolution of marriage in March 2005. Husband and Wife have two adult children.

In June 1995, Husband inherited farm land located in Tippecanoe County from his parents. Husband and Wife formed The Ade Group, Inc. to operate a golf course on that land, and they formed Ravines L.L.C. for the purpose of managing and holding real estate. The Ade Group operates a golf course on 125.459 acres of the farm land. But Husband and Wife retained ownership of thirty-six acres of that 125 acres. The remainder of land is owned by The Ade Group.

For the purpose of trial, Wife retained John Snell to appraise the golf course. Snell appraised the golf course at \$1,400,000, and Husband agreed with that figure. At

the time of the final hearing, however, Ravines Golf Course owed \$1,194,189.49 to Tri-County Bank, and it owed other creditors a total of \$328,382.87.

At trial, Wife testified that the value of the thirty-six acres of land owned by Husband and Wife was \$3500 per acre, or \$126,000. Husband's expert testified that that land was worth \$2500 per acre. At the conclusion of the factfinding hearing, the trial court ordered each party to submit proposed findings and conclusions.

On April 5, 2007, the trial court entered the final dissolution decree with findings and conclusions. On April 16, Wife filed a motion to strike and motion to correct error. On May 4, Husband filed a motion to correct error and/or motion for relief under Trial Rule 60. Following a hearing on those motions, the trial court issued a corrected final dissolution decree with findings and conclusions. That decree is dated June 15, 2007. On July 2, Wife filed a second motion to correct error. And on July 13, Husband filed a notice of appeal. On August 13, the trial court clerk filed a notice of completion of clerk's record with this court. On August 17, the trial court held a hearing on Wife's second motion to correct error, and the court issued a second corrected final dissolution decree with findings and conclusions. On September 17, Husband filed a second notice of appeal.

On October 11, this court issued an order whereby we remanded this case to the trial court "for consideration of all matters for which rulings were purportedly entered by the trial court after this Court acquired jurisdiction over this matter on August 13, 2007."

We also instructed the trial court to enter a final, appealable order. The trial court entered its “Final Judgment” on the same day. This appeal ensued.¹

Issue One: Jurisdiction

Husband first contends that the trial court did not have jurisdiction to rule on Wife’s second motion to correct error. Husband is correct that this court obtained jurisdiction over this matter on August 17, 2007, when the trial court clerk filed its notice of completion of transcript. See Ind. Appellate Rule 8. However, on Husband’s motion, on October 9, 2007, we held Husband’s appeal in abeyance and remanded to the trial court “for consideration of all matters for which rulings were purportedly entered by the trial court after this Court acquired jurisdiction over this matter on August 13, 2007.” (Emphasis added). Because we temporarily relinquished jurisdiction and authorized the trial court to consider matters such as Wife’s second motion to correct error at that time, Husband’s contention on this issue is moot.

Issue Two: Division of Marital Estate

The division of marital assets lies within the sound discretion of the trial court, and we will reverse only for an abuse of discretion. Sanjari v. Sanjari, 755 N.E.2d 1186, 1191 (Ind. Ct. App. 2001). We will not reweigh the evidence or assess the credibility of witnesses, and we consider only the evidence most favorable to the trial court’s disposition of marital property. Id. The party challenging the trial court’s property

¹ We note that Father has included a complete copy of the transcript in his appendix on appeal, in violation of Indiana Appellate Rule 50(A)(d) and (g) (instructing appellants to include “the portion of the Transcript that contains the rationale of decision and any colloquy related thereto” and “brief portions of the Transcript, that are important to a consideration of the issues raised on appeal”). This practice results in an unnecessarily large and unwieldy appendix. We urge Father’s counsel to adhere to this important rule when filing future appeals.

division must overcome a strong presumption that the trial court complied with the statutory guidelines. Id.

Husband contends that the trial court “committed error in two ways: (1) by dividing the assets unequally and inaccurately; and (2) by including the family farm ground as a marital asset.” Brief of Appellant at 15. The trial court’s final dissolution decree dated October 11, 2007, included the following division of the parties’ assets and debts:

Wife:

House equity \$1,761.28
Additional cash
from Husband \$3,000
Prudential Accounts \$90,000
2000 Toyota Camry \$10,000
Credit cards -\$3,000

Total to Wife \$101,761.28

Husband:

36 acres \$126,000
Farm Ground \$90,000
2002 Honda \$12,000
Credit cards -\$6,000
Ade Group, Inc. -\$103,956
Car loans -\$29,000
Housing lots \$70,000
Less debt on lots -\$70,000
Accounts receivable \$52,000
Accounts receivable \$41,726
Tractor \$4,000

Total to Husband \$186,670

Total Marital Assets = \$288,431.28

And the trial court ordered Husband to pay Wife “an equalizing payment of \$42,454.36[.]” Appellant’s App. at 64. Thus, the trial court divided the marital estate equally.

From what we can gather in reading Husband’s argument on appeal, Husband’s sole contention on the issue of the allegedly “unequal” division of marital assets is that the trial court should not have assigned him an asset of \$126,000 for the thirty-six acres

of farm land. Husband maintains that there is no evidence in the record showing that such an asset exists. But Husband's own expert witness, Michael Strauch, testified that the thirty-six acre parcel was valued "separately just because it's in [Husband and Wife's] name[s] jointly." Appellant's App. at 88. Strauch also testified that the thirty-six acre parcel was "owned outside of this corporation[.]" Id. at 105. Finally, Strauch testified that he appraised that parcel at \$2500 per acre. That evidence, without more, supports the trial court's conclusion that the thirty-six acre parcel was properly excluded from the corporation's holdings. And because Wife presented evidence that the value of the land was \$3500 per acre, the trial court's conclusion that the parcel was worth \$126,000 is supported by the evidence. Husband characterizes Wife's figure as "arbitrary," but there is evidence in the record that Husband had recently sold similar farm land for \$3500 per acre. Brief of Appellant at 18. The trial court did not abuse its discretion when it adopted Wife's valuation of the thirty-six acre parcel.

Next, Husband contends that the trial court should have excluded the land he inherited from his parents from the marital estate. But Husband does not support that contention with any argument or citations to authority. The only mention of this issue consists of the following: "Husband believes the Trial Court committed error . . . by including the family farm ground as a marital asset." Brief of Appellant at 15. As such, the issue is waived. Waiver notwithstanding, it is well-settled that all property owned by the parties before separation, including inherited property, must be included in the marital estate. Grathwohl v. Garrity, 871 N.E.2d 297, 301 (Ind. Ct. App. 2007).

Because Husband owned the farm land before he separated from Wife, Husband's contention on this issue is without merit.²

In sum, Husband has not demonstrated that the trial court abused its discretion when it valued and divided the marital assets. Husband's contentions on appeal amount to a request that we reweigh the evidence, which we will not do.

Cross-Appeal

Wife cross-appeals and contends that the trial court assigned the wrong value to an account receivable awarded to Husband. In particular, in a discovery response, Husband listed as an asset, "Debt owed to Ed and JoAnn by golf course . . . for past work, loans, etc. \$90,000.00." Appellant's App. at 323. At the final hearing, however, Strauch, Husband's CPA, testified that that asset was only worth \$41,726. When asked about the asset on cross-examination, Husband testified that \$90,000 was a "closer" estimate of the amount of the asset. *Id.* at 181. Thus, Wife maintains that the trial court abused its discretion when it found the asset to be worth \$41,726.

Initially, we note that Wife has not directed us to the portions of the record containing evidence to support her contention on this issue. As such, the issue is waived. *See* Ind. Appellate Rules 46(A)(8)(a) and 46(B).³ Waiver notwithstanding, our standard of review dictates that we will not reweigh the evidence. Strauch's testimony on this issue supports the trial court's finding. While the weight of the evidence might

² Had Husband developed an argument on this issue, he might have alleged that the trial court abused its discretion by not awarding that asset as a set off to him. *See* Ind. Code § 31-15-7-5.

³ The rule clearly states that the argument section of a party's brief must contain the party's contentions "supported by citations to the authorities, statutes, and the Appendix or parts of the Record on Appeal relied on[.]" Ind. Appellate Rule 46(A)(8)(a). Citations to the appendix in the Statement of Facts section of an appellate brief are insufficient.

appear to favor Wife on this issue, we cannot say that the trial court abused its discretion when it found the receivable to be worth \$41,726.

Affirmed.

BAILEY, J., and CRONE, J., concur.